

EPPING FOREST DISTRICT COUNCIL: Examination of the District Local Plan, 2011- 2033.

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Dear Ms Blom-Cooper,

INSPECTOR'S ADVICE AFTER HEARINGS

1. The hearings stage of my examination into the soundness and legal compliance of the Epping Forest District Local Plan 2011-33 (the Plan) closed on 11 June 2019. At the end of the final hearing, I advised the Council that changes to the Plan would be required to remedy issues of soundness in the form of Main Modifications (MMs). Many MMs were discussed during the hearings, including those which had been advanced by the Council (the vast majority), and others proposed by participants or by me. The Council is already drawing up a schedule of the MMs which were "agreed" with me at the hearings on the basis that they will be subject to public consultation in due course.
2. I also indicated that I needed to carefully consider some of the more complex matters raised before deciding whether further MMs are required and this letter now sets out my position. My conclusion at this stage is that further MMs are required and that in some cases, additional work will need to be done by the Council to establish their precise form. My advice below covers both strategic and detailed matters reflecting the comprehensive nature of the Plan and the range of issues raised in the representations and/or discussed at the hearings.
3. The magnitude of the work involved in getting the Plan to this point, and the importance attached to having an up to date Plan in place both locally and nationally, are at the forefront of my mind and so I have sought to be pragmatic and constructive. This note focuses on the areas where I have misgivings, but my full reasoning will be provided in my final report which will address all issues of soundness. Therefore the advice set out below is given without prejudice to the conclusions that I might ultimately reach.
4. My advice is structured around the following broad areas, but some of the issues necessarily overlap:
 - The implications of my examination under the National Planning Policy Framework 2012 for modifications advanced by the Council concerning housing land supply and viability;
 - The robustness of the Habitats Regulations Assessment, January 2019;
 - Issues concerning the Plan's housing requirement and distribution, and its proposals for housing delivery;
 - The allocations forming part of the Harlow and Gilston Garden Town Community;
 - Settlement/site specific matters; and
 - Detailed policy matters.
5. At the end of each section, I have summarised the necessary actions in **bold**.

Examination under National Planning Policy Framework 2012

6. Paragraph 214 of the National Planning Policy Framework 2019 (2019 Framework) provides that the policies in the previous Framework, the 2012 version, will apply for the purpose of examining plans submitted on or before 24 January 2019. Paragraph 7 of my initial Guidance Note (ED6) explains that this arrangement applies to my examination of the submitted Plan. Paragraph 9 further explains that my role is to determine whether the Plan is legally compliant and sound as it stands rather than to improve it or to make it more sound. By the same standard, it is not my role to facilitate the Council's own improvements or updates to the Plan unless they are required for soundness.
7. During the course of the examination, the Council has requested that I recommend modifications in two specific areas to reflect new provisions in the 2019 Framework. The first concerns paragraph 74 which now permits Councils to confirm their five-year housing land supply positions annually, initially through recently adopted plans and then through formal position statements. The Council's desire to make use of this provision is understandable, but modifications relating to this matter are not required to achieve consistency with paragraph 47 of the 2012 Framework. Nor are they required to enable planning decisions to be taken in accordance with paragraphs 73 and 11(d) of the 2019 Framework.
8. Consequently they are not required either for soundness or to avoid future policy conflicts and so they do not need to be made through the examination of the submitted Plan. Considering the late timing of the Council's request, after the relevant hearing session; that it did not (indeed could not) indicate its intention to confirm the land supply position through the examination of the Plan at the Regulation 19 stage¹; and having regard to the objections of participants in the examination process, I have decided that no such modifications should be made.
9. The second request is to modify the Plan (mainly Policies H2: Affordable Housing and D1: Delivery of Infrastructure) to fully reflect paragraph 57 of the 2019 Framework on viability in relation to the Garden Town allocations. It is made on the basis that the Council has published significant detailed work on infrastructure provision and viability in respect of these sites since the Plan was submitted². Having regard to this evidence, the Council intends that the Plan's policies on contributions etc. would be relied upon for decision making without the need for viability assessment at the planning application stage. Applicants would be required to demonstrate that further viability work was justified.
10. The Council's proposed modifications are again made late and are controversial. Like those concerning the five-year land supply above, they are not necessary to achieve consistency with paragraph 173 of the 2012 Framework. They are not necessary to enable decision-makers to apply

¹ As required by the PPG, paragraph 049, Ref. ID 3-049-20180913, revision date 13/09/2018.

² Harlow & Gilston Garden Town Guidance Note (ED33); Harlow & Gilston Garden Town Infrastructure Delivery Plan (ED34 & 35A); and Harlow & Gilston Garden Town Strategic Viability Assessment (ED35 & 35A).

paragraph 57 of the 2019 Framework because applicants will still be required to demonstrate the need for viability assessments (albeit the process should be easier); and the weight to be given to any such assessments will be a matter for decision-makers. Again, therefore, it is not necessary for soundness to modify the Plan with the specific intention of invoking paragraph 57 of the 2019 Framework.

11. Moreover, the representations raise valid concerns about the depth of consultation which took place during the preparation of the documents referenced above; and about the uncertainty surrounding many of the infrastructure requirements and funding sources identified therein. On the basis that the modifications advanced by the Council are not necessary for soundness, I conclude that they should not be made in the form presently proposed. However, for effectiveness, it is necessary to amend the Plan to identify the Garden Town documents as the up-to-date evidence to which applicants should refer. The proposed modifications should be redrafted on this basis.

ACTION 1: To exclude/redraft MMs which would seek to confirm the five-year housing land supply in accordance with paragraph 74 of the 2019 Framework and to invoke paragraph 57 concerning viability.

ACTION 2: To prepare MMs to identify the recent Garden Town infrastructure and viability documents as the up-to-date evidence to which applicants should refer.

The Habitats Regulations Assessment

12. The Habitats Regulations Assessment January 2019 (the HRA) (EB209) found that the Plan would be likely to have a significant effect upon the Epping Forest Special Area of Conservation (the SAC) in respect of both atmospheric pollution and disturbance from recreation/urbanisation. An Appropriate Assessment (AA) of its implications for the integrity of the SAC was therefore undertaken. For both pathways of impact, the AA concluded that with mitigation, the Plan would not have an adverse effect on the integrity of the SAC either alone or in combination with other plans or projects.
13. However, in their written representations and at the hearing itself, both Natural England and the Conservators of Epping Forest (the Conservators) strongly challenged the robustness of the HRA in terms of its methodology and conclusions. Given the uniqueness of the Forest, its high-risk status and the professed engagement between these key representors and the Council, the dispute at this stage seems most unfortunate. Nevertheless, I cannot conclude beyond reasonable scientific doubt (as the parties all agree that I must) that the Plan will not adversely affect the integrity of the SAC until steps have been taken towards resolving it.

Atmospheric Pollution

14. In relation to air quality, the key issues to address as I see them are set out below. However, in this technical area I must, to some extent, rely upon the experts to refine them if necessary.

- i. **Unmitigated growth scenario DS2:** This might not account fully for nitrogen deposition because the modelling is based on “dwarf, shrub, heath” rather than tall forest vegetation.
 - ii. **Mitigated scenario DS5:** There is no direct causal link between the mitigation measures proposed in the Plan (and set out at para. 6.18 of the HRA) and the use of the 2030 DEFRA emission factors for modelling the effects of scenario DS5. Thus the evidence provided by the HRA is not robust in this respect.
 - iii. **Conclusions:** Even as it stands, the HRA finds (at para. 6.20) that the Plan with mitigation would delay the SAC falling below the critical load for nitrogen along five modelled transects (A1, K, L, M and N). It also finds (at para. 6.12) that the Plan would cause a deterioration in ammonia concentrations at several receptor points. In the absence of any habitat/location-specific analysis of these effects, to take account of the current state of the forest, the evidence does not robustly demonstrate that the effects would be insignificant as claimed.
15. In respect of how these issues should be addressed, hopefully it is quite straightforward to model for tall rather than short vegetation where appropriate. Where it is found that the Plan would either increase the dose of the relevant pollutants, or would delay the rate at which the pollutants would fall to acceptable levels, then appropriate work should be undertaken to enable the effects of this to be understood at the location/habitat specific level. Whilst participants in the hearing advocated surveying the entire forest to understand its present condition, this would not seem either proportionate or necessary to assess the effects of planned growth. Indeed if mitigation can be secured to reduce the effects of the Plan, then the need for survey work could be reduced accordingly.
16. However, actually achieving sufficient confidence in any necessary mitigation measures is clearly challenging. I heard that physical measures (road works) to which specific benefits could be attributed would themselves harm the SAC; and while schemes for road charging and completely car-free development might warrant future consideration, they could not realistically be implemented to support this Plan. Therefore, the Council must either be clearer about the benefits of the mitigation proposed in para. 6.18 of the HRA; provide robust habitat/location specific evidence to demonstrate that any effects of development would not be adverse; or avoid the effects by altering (or potentially reducing) the pattern of growth proposed in the Plan. See my advice below concerning the Plan’s housing requirement and distribution further on this matter.

ACTION 3: To update the HRA modelling to take account of “tall vegetation”.

ACTION 4: In locations where the HRA modelling shows either an increase in the dose of nitrogen/nitrogen oxide/ammonia, or a delay in the rate at which a pollutant would fall to an acceptable level, to analyse the location/habitat-specific effects.

ACTION 5: To provide robust, habitat-specific evidence that any effects of development would not be adverse; or to seek to avoid the effects by

altering (or potentially reducing) the pattern of growth proposed in the Plan.

Disturbance from Recreation/Urbanisation

17. There was general agreement in principle that the adverse effects of increased recreation upon the SAC could be mitigated by the implementation of a Strategic Access Management & Monitoring (SAMM) Strategy and a Suitable Alternative Natural Greenspace (SANG) Strategy. A SAMM Strategy, in the form of an Interim Mitigation Strategy developed in conjunction with the Conservators and signed off by Natural England, was adopted in October 2018 (EB134). A SANG Strategy is also needed to mitigate the full effect of recreational pressure upon the SAC, but the adopted SAMM Strategy, kept under review, will address the effects of development within 3km of the SAC.
18. A SANG Strategy is being prepared which seeks bespoke on-site or strategic off-site SANG for sites accommodating 400 or more dwellings within 3-6.2km of the SAC. Sites accommodating less than 400 dwellings would not provide or contribute towards SANG, but this is justified in light of the visitor survey which demonstrates that the requirements for the larger sites are themselves precautionary and would be sufficient. However, at present there is no clear evidence to demonstrate that the necessary SANG, of an appropriate quality and in the right place, could be delivered to support these larger sites. This is needed to provide confidence that the Council's strategic allocations are deliverable within the Plan period; and, for effectiveness, any SANG needed within five years of the Plan's adoption should be secured by the Plan itself.
19. The Plan's allocations in the relevant "Place" Policies or in Appendix 6 should be modified to ensure that any obligations regarding SAMM or SANG are clearly stated. Once work is complete in response to both the air quality and recreational aspects of my advice, Policies DM2 and DM22 should be updated to include any general requirements for windfall schemes.

ACTION 6: To provide clear evidence that the necessary SANG can be delivered over the Plan period; include proposals for SANG required in the first five years within the Plan itself; and to prepare any MMs needed to ensure that all site specific SAMM or SANG requirements are reflected in the Plan.

ACTION 7: To draft MMs to ensure that Policies DM2 and DM22 reflect the updated position on air quality and recreational pressure.

Housing: Requirement, Distribution & Delivery

Requirement & Distribution

20. Policy SP2 sets the Plan's housing requirement for the period 2011-2033 at a minimum of 11,400 new dwellings, which is below the Objectively Assessed Need for Housing (OAN) of 12,573 dwellings for Epping Forest found by the most recent Strategic Housing Market Assessment (HMA) of July 2017 (EB407). The submitted Plan in fact claims a total housing supply of 13,152 new dwellings and so, on the face of it, setting the requirement below the OAN seems rather unambitious. However, Epping Forest is part of a wider

HMA comprising four local authority areas and the delivery of a minimum of 11,400 dwellings would help enable the full OAN for market and affordable housing to be met within the Housing Market Area (HMA) as a whole, as required by paragraph 47 of the 2012 Framework. Given the significant constraints upon development in the District, including the SAC and Green Belt; and in light of my concerns about some of the Plan's allocated housing sites (see below), the requirement for Epping Forest should not be increased further. For effectiveness however, the Plan's affordable housing requirement of 2,851 dwellings for the period 2016-33 should be set in policy.

21. The implication of my advice concerning the SAC and some of the sites in the Plan more generally is that the capacity of certain allocations might need to be reduced, or the sites deleted altogether. However, the evidence does not yet rule out the possibility that alternative sites could be found relatively quickly to replace any lost capacity resulting from my recommendations. Indeed, the Sustainability Appraisal (SA) of December 2017 (EB204) indicates that significantly more sites passed Stage 3 of the site selection process than were needed to reach the Plan's housing requirement – i.e. sites within the Council's preferred strategic growth options for the District's settlements.
22. Furthermore, the evidence which I've read and heard indicates that certain types/categories of sites could be revisited if necessary, although I am not suggesting that this must be done to correct systematic methodological flaws. Such types/categories include those sites which were proposed for allocation in the Regulation 18 version of the Plan but deleted from the Regulation 19 version; those which were proposed to the Council for more dwellings than have been allocated; those which have been allocated in part but sub-divided for technical reasons; and similarly, those which fall low in the "land preference hierarchy" for technical reasons but which might be perceived by a layman as derelict previously developed land.
23. Therefore at present I do not discount the possibility that alternative sites could be found within the Council's preferred spatial strategy, but whether this approach could address the effects of air pollution upon the SAC remains uncertain. If it could not, then the Council would need to explore specific, preferably localised amendments to the spatial strategy through the SA process before I could consider any reduction in the total housing requirement. I accept that alternative district-wide distributions have been subject to SA, but on the basis of a fixed "beyond Harlow" requirement and with acknowledgement that the alternatives varied in limited respects. This would be justified if the Plan's allocations were deliverable as submitted, but the SA does not presently demonstrate that no alternative distribution could be contemplated.

ACTION 8: To prepare MMs to set the Plan's affordable housing requirement of 2,851 dwellings for the period 2016-33 in policy.

ACTION 9: In light of my advice concerning the SAC and specific allocations (see below), to seek alternative sites to meet the housing requirement, firstly within the Council's preferred strategic growth options. If no such sites can be found, to explore amendments to the spatial strategy through the SA process.

Housing Delivery

24. In undertaking the work outlined above, the housing requirement and supply figures used in the Plan should be updated to reflect the position at 1 April 2019, including for the purpose of the five-year land supply calculation. Otherwise they are likely to be out of date upon adoption. The dwelling capacities attributed to Strategic Masterplan and Concept Framework Areas can be expressed as minimum figures except in the case of **EPP.R1/R2** (South Epping Masterplan Area), for the reasons explained below. The capacities attributed to all other allocated sites should be expressed as approximate figures to provide flexibility, particularly because there are cases where the site promoters themselves consider that development densities have been over-estimated.
25. The Council has provided an updated housing trajectory for the Plan in its Housing Implementation Strategy (HIS) 2019 (EB410A). It is proposed to spread the shortfall in housing delivery since 2011 across the remainder of the Plan period by use of the "Liverpool" method, and to use a stepped trajectory so that more homes will be delivered in the last 10 years of the Plan period than the next five. This approach is potentially justified for the reasons given in the HIS, but I must reserve my position until the site allocations are finalised having regard to my advice above. New sites proposed for allocation might be capable of delivering completions early in the remaining Plan period and this should be an important aim of the site selection process.
26. The housing requirement for the five-year period 2018/19 – 2022/23 is set by the HIS at 425 dwellings per annum. This is on the basis that the total delivery "target" would be achievable if either the 5% or 20% buffer required by paragraph 47 of the Framework is added. In this respect, the housing requirement proposed for the first five years is essentially a mathematical construction to ensure that the Council is not set up to fail. Participants in the hearing were concerned about this, but in the context of a stepped trajectory, it is to be expected. To justify a stepped trajectory, it should neither be possible to meet the averaged annualised requirement nor to move supply forward from later in the Plan period and so no genuine "buffer" could realistically be added.
27. However, national policy in both the 2012 and 2019 Frameworks requires a buffer to be added and so, should a stepped trajectory remain justified once the Plan's housing allocations are finalised in light of my advice, the requirement for the first five years should be set as high as realistically possible allowing for the addition of a 20% buffer. This is because paragraph 73(c) of the 2019 Framework would require a 20% buffer in the event that the Housing Delivery Test results indicate delivery below 85% of the requirement. The level of housing required in each year of the Plan period should be set out in Policy, likely in Policy SP2, and it should be made explicit that the five-year supply should be assessed on this basis.
28. Paragraph 33 of the 2019 Framework sets out the requirements for reviewing Local Plans with which the Council will need to comply. In view of these requirements, the Council has advanced a modification to the Plan to include a Local Plan Review policy, as Policy D8. The proposed policy sets out how and when the Plan will be reviewed as required by national policy, as

well as identifying the circumstances which could lead to an earlier review. In light of the housing land supply position, the inclusion of this policy is necessary for effectiveness.

29. However, having regard to the recommendations of the Transport Assessment Report 2019 (TAR) (EB503), a transport-related clause should be added to Part B which identifies the factors to which the Council will have regard in deciding whether the Plan's policies need updating. The TAR recommends that the success of sustainable transport measures in mitigating the effects of development upon the road network should be monitored before committing substantial funds to physical measures, but it is acknowledged that the latter are likely to be required and are presently only at concept design stage. Consequently the Plan's policies might require updating if the sustainable transport measures are not sufficiently effective and no alternative physical scheme is available.

ACTION 10: To update the housing requirement and supply figures used in the Plan to reflect the position at 1 April 2019, including for the purpose of the five-year land supply calculation.

ACTION 11: To ensure it is clear that the dwelling capacity estimates for Strategic Masterplan and Concept Framework areas are expressed as "minimum" figures (except for EPP.R1 & R2); and for all other allocations as "approximate" figures.

ACTION 12: To include a 20% buffer in the five-year supply; to set the level of housing required in each year of the Plan period in policy; and to clarify in policy how the five-year supply will be assessed.

ACTION 13: To add a transport-related clause to proposed review policy D8 to reflect the recommendations of the TAR 2019.

Harlow and Gilston Garden Town Communities

30. The Council is already drawing up a number of MMs affecting the Garden Town proposals in the Plan as a result of the Matter 8 hearing session and also other sessions, particularly on transport and infrastructure. These MMs include the need to clearly convey the interrelationship of the individual Garden Town communities across the relevant local authority areas; detailed changes to the wording of Policy SP5; and the need to explain the nature of the Sustainable Transport Corridors and to safeguard their likely routes. Other matters might also be covered in my report, but my advice now focusses upon site specific matters.

SP5.1: Latton Priory Masterplan Area

31. The majority of this large site adjoining the administrative boundary with Harlow District would be removed from the Green Belt, but Map 2.2 in the Plan shows that the southernmost part would be retained within it. The Green Belt boundary would cut across the site with quite a substantial part of it lying to the south. The new Green Belt boundary has been drawn along the ridgeline and the Council's site selection work concludes that built development should not take place beyond it. The site promoter agrees and

confirmed at the hearing that none would be proposed here. Nevertheless, while it is justified to include this area within the allocation for the contribution it could make to open space provision for example, it is also justified for the Plan to protect it from physical development.

32. However, paragraph 85 of the 2012 Framework requires that Green Belt boundaries should be clearly defined, using features that are readily recognisable and likely to be permanent. The ridgeline along which the new Green Belt boundary is presently proposed is not particularly prominent because the land falls away gently to the south, and nor is it demarked by any other obvious physical features. By contrast, the site boundary itself is marked at several points by stands of mature trees. These could be reinforced and linked with similar planting to achieve a readily recognisable Green Belt boundary which would be likely to have a more natural appearance than the creation of an entirely new feature along the ridgeline. Therefore the Plan should be modified so that the Green Belt and site boundaries coincide. Further modifications will be required to ensure that physical development does not take place beyond the ridge.

33. Additionally in relation to Latton Priory, the indicative access road shown on Map 2.1 and proposed to be repeated on Map 2.2 would lie to the south of the ridgeline discussed above, and cut through an open field to adjoin the B1393 to the east. This route would appear disconnected from the developable part of the site and represent an intrusion into the Green Belt and countryside generally. Moreover, there appear to be several potential points of access to/from the north and west, which would better connect the new and existing development in the area. Therefore, further investigation/explanation is required before I can conclude that the present proposals are justified.

ACTION 14: To redraw the Green Belt boundary of site SP5.1 (Latton Priory) to coincide with the boundary of the site allocation.

ACTION 15: To review the access proposed to serve site SP5.1 (Latton Priory) and either modify it or provide further justification for its route.

SP5.3: East of Harlow Masterplan Area

34. This is a large, cross-boundary allocation with the land in Epping Forest expected to accommodate a minimum of 750 homes, a small Traveller site, a local centre, a hospital and possibly a secondary school in addition to a range of supporting development. This is clearly a significant and complex undertaking for which no masterplanning work is presently available, except in relation to the hospital.

35. The site promoter intends to commence the masterplanning process upon the conclusion of the examination and has signed a Statement of Common Ground (ED20) confirming that delivery is expected to commence in 2023/24 as forecast in Appendix B of the HIS (ED410B). However, given the present stage of preparation, this is not convincing and a more conservative projection is required based on up to date evidence of progress. The Council should reconsider the position of this site in the trajectory and no delivery should be assumed within the next five years.

36. Furthermore, the absence of conceptual work at this stage makes it difficult to understand the need for the scale of Green Belt land proposed to be released to the north, right up to the junction with the small settlement of Sheering. Given the amount and mixed nature of the development to be accommodated on this site, it is quite possible that the new Green Belt boundary is justified. However, further information/explanation is required in relation to how the land will be used before I can reach this conclusion.

ACTION 16: To review the position of site SP5.3 (East of Harlow) in the housing trajectory in light of current evidence of progress; and to provide more detailed information concerning the likely use of the land to justify the northward extent of the proposed new Green Belt boundary.

Settlement/Site-Specific Matters

37. This section sets out my advice in relation to particular sites or categories of sites proposed to be allocated in the Plan and to settlement-specific matters. It does not cover those modifications already signalled as being necessary at the hearings.

Car Park Sites

38. The Plan would allocate seven sites currently in use as car parks: EPP.R1; LOU.R1; LOU.R2; BUCK.R2; THYB.R2 (London Underground car parks); and EPP.R6 and EPP.R7 (car parks serving the High Street in Epping). The allocations are, in principle, justified and consistent with the aims of the 2012 Framework in respect of making best use of previously developed land and focusing development in sustainable locations (paragraph 17). The clauses in the Plan which would require the existing number of parking spaces to be retained are important in justifying these allocations. Whilst not at the level of detail required at the planning application stage, the evidence presented in the Settlement Capacity Study (EB803) in respect of feasibility and viability demonstrates that there is a reasonable prospect of the sites being delivered.

39. The possible exceptions are sites **LOU.R1** (Loughton London Underground Car Park) and **LOU.R2** (Debden London Underground Car Park), about which Transport for London (TfL) submitted its own feasibility and viability evidence late in proceedings as part of its pre-hearing Statement³. This effectively promoted schemes of a significantly larger scale than those allocated in the Plan on the basis that more development would be needed for reasons of viability: 321 dwellings on site LOU.R1 versus 165 proposed in the Plan; and 226 on site LOU.R2, versus 192. TfL's visualisation work indicates the need for 12-13 storey buildings as opposed to the 5-6 storey buildings envisaged by the Council and, furthermore, the work relating to LOU.R1 is based on a larger site.

40. Having visited the sites, I am likely to conclude in my report that developments of the scale now proposed by TfL could not be accommodated without significant detriment to the character and appearance of the surrounding areas. Notwithstanding that the Council's own feasibility work

³ Matter 15 Statement on behalf of TfL Commercial development (19LAD0071).

might make modest assumptions about site capacity, the difference between the allocated development and that which the landowner wishes to build are too great to be addressed through providing flexibility in the Plan. Even if the allocations remain, they should be modified to include a height limit to safeguard against buildings of the size envisaged by TfL. Indeed, a height limit should be imposed on all the London Underground car park sites to ensure that development is compatible with their surroundings.

41. I understand that prior to submitting its pre-hearing Statement, TfL had not raised concerns about the viability of sites LOU.R1 and R2 and so the Council requested the opportunity to discuss the matter further. If the parties can agree that the sites would have a reasonable prospect of being delivered in the form proposed to be allocated, this should be set out in a Statement of Common Ground. This should clearly explain the intentions of the pre-hearing Statement and give confidence that buildings of the scale shown therein will not be required. If such an agreement cannot be reached, the sites should be deleted from the Plan on the basis that they are not viable as proposed, and a significantly greater number of homes would cause harm to the character and appearance of the area.

ACTION 17: To prepare MMs to impose a height limit upon developments the London Underground car park sites.

ACTION 18: To agree a Statement of Common Ground with TfL to give confidence that sites LOU.R1 and LOU.R2 are deliverable as proposed in the Plan; or to delete these allocations via a MM.

Epping

42. The South Epping Masterplan Area, comprising of sites **EPP.R1 and EPP.R2**, would be allocated in the Plan for a minimum of 950 dwellings, with 95 per annum expected to be delivered from 2023/24 onwards (Appendix B of the HIS, EB410B). In principle the allocation of these sites is justified by the Council's site selection work and, in this respect, both consultation responses and emerging neighbourhood plan proposals are legitimate factors for consideration.

43. In terms of detail, however, the sites are subject to numerous constraints, including Green Belt and HRA considerations, noise and air quality associated with the M25, the presence of overhead powerlines and the need for a bridge over the railway to connect them. At present, the indicative site density/capacity assessment in document EB805N (pages 874, 877 and 878) is insufficiently thorough to demonstrate that at least 950 homes could be accommodated over the Plan period, or that homes could be delivered as soon as projected by the HIS.

44. In particular, the concerns I expressed at the hearing about the effect of development on the elevated land in the region of Flux's Lane (EPP.R2) upon the Green Belt (purpose 4) remain; and I am similarly concerned about the potential effects of any necessary acoustic bund adjacent to the motorway. Additionally, the site promoters have confirmed that it would not be financially viable for the development itself to fund the vehicular bridge across the railway which the Council and highway authority maintain is

essential for connectivity. As no alternative means is suggested, this presents a significant risk to the delivery of this strategic site.

45. Therefore the Council should review its site capacity work, preferably in conjunction with the site promoters, with the above concerns in mind together with the need for SANG provision as outlined above. It should also set out clearly how the bridge is intended to be delivered and what contingencies will be in place if this does not happen. I am open to this allocation remaining in the Plan but, at this stage, I anticipate a reduction in the number of dwellings proposed and/or a delay in the projected timing of their delivery.
46. In relation to other sites in Epping, a modification is required to the "Design" entry in Appendix 6 for **EPP.R4** (Land at St Johns Road) to make it explicit that the site is expected to accommodate a replacement for the sports/leisure facility to be lost through the allocation of EPP.R5. The modification proposed in paragraph 5 of document ED85 would be sufficient to ensure the protection of the listed building forming part of allocation **EPP.R8** (Land and part of Civic Offices).

ACTION 19: To review the site capacity work for EPP.R1 and R2 (South Epping Masterplan Area) taking detailed account of constraints, and to consider the delivery of the bridge. It is likely that the number of dwellings proposed should be reduced and/or that the projected timing of delivery should be delayed.

ACTION 20: To prepare MMs in relation to sites EPP.R4 (Land at St Johns Road) and EPP.R8 (Civic Offices).

Loughton

47. Beginning with general matters, the Council has advanced potential modifications to the site-specific requirements for LOU.R2, R4 and R9 concerning the impact of development upon the Roding Valley Meadows Site of Special Scientific Interest (SSSI). These sites apparently fall within the "impact risk zone" identified for the SSSI. However, the risk posed by development to the SSSI is not clear and so I do not know whether the modifications proposed would secure adequate mitigation. The Council should clarify this matter, either through the preparation of the MM Schedule or separately as appropriate.
48. Concerns were also raised about the omission of the Sainsburys store in Loughton Broadway from the Primary Shopping Area (PSA) and the Primary Shopping Frontage (PSF). However, the store is disconnected from the parade of shops fronting The Broadway down a side road which includes residential as well as commercial uses at ground floor level. In fact it is not even visible from The Broadway. Its exclusion from the PSA and PSF is justified by reference to the definition of those terms in Annex 2 of the 2012 Framework and no modifications are required in relation to this matter.
49. Turning to site specific matters, **LOU.R5** (Jessel Green) is allocated for a minimum of 154 homes. It is a vast, unfenced open space at the centre of a large housing area. The topography varies across the space so that there is sloping land with some tree cover as well as a large, relatively flat grassed

area. There is a children's play area at the northern end adjacent to Colebrook Lane. Thus the space both contributes significantly to the character and appearance of the area and lends itself to a range of leisure activities. It is clearly well used by local residents, including for organised events. Whilst there are a number of other open spaces in the vicinity of the site, none which I observed compare to Jessel Green in respect of either scale or character. The development of a major part of it for housing would therefore harm the character and appearance of the area and severely compromise an important local facility.

50. Development opportunities in Epping Forest District are clearly constrained by the Green Belt boundary being tightly drawn around its principal settlements including Loughton and, in this context, the Council's efforts to make full use of land within built up areas is well-founded in principle. However, given the importance of Jessel Green to both visual and social amenity, the benefit of the proposed housing would not outweigh the harm which would be caused by the loss of the open space. For this reason, the allocation would not be justified and it should be deleted from the Plan accordingly. My conclusion stands whether or not there would remain a surplus of amenity green space in Loughton (see advice concerning Policy DM6 below).
51. With regard to other sites, participants at the hearing indicated that there was some interrelationship between proposed allocations **LOU.R4** (Border Lane Playing Fields) and **LOU.R9** (Land at Former Epping Forest College). The Council should clarify whether it is necessary to require sports facilities to be provided on the former to justify the allocation of the latter having regard to commitments made by the College in 2009. In relation to **LOU.R14** (Land at Alderton Hill), it was confirmed at the hearing that the site area must be reduced to take account of land availability and that the estimated capacity of the site should be reduced from 33 to 19 dwellings. Finally, the Council indicated that it would be necessary to consult with the highway authority to confirm whether contributions towards a Controlled Parking Zone would be necessary to justify proposed allocation **LOU.R16** (St. Thomas More RC Church).

ACTION 21: To clarify the risk posed by development to the Roding Valley Meadows SSSI as well as the nature of the mitigation required.

ACTION 22: To delete proposed allocation LOU.R5 (Jessel Green) via a MM.

ACTION 23: To prepare MMs in relation to sites LOU.R4 (Border Lane Playing Fields) and LOU.R14 (Land at Alderton Hill); and to investigate the need for CPZ contributions from site LOU.R16 (St. Thomas More RC Church).

Waltham Abbey

52. I understand that one of the factors weighing in favour of the Council's decision to allocate the Waltham Abbey North Masterplan Area (comprising of sites **WAL.R1**, **WAL.R2**, **WAL.R3** and **WAL.T1**) for a minimum of 610 homes was the need to provide land for the expansion of the King Harold Academy Secondary School. The balance of the evidence now suggests that

the site is unlikely to be required for this purpose, but the allocation is nevertheless justified in view of the general need for housing in the District. However, neither Part G nor Part N(v) of Policy P3 are justified because they specifically concern the expansion of the school. They should therefore be deleted along with any relevant references in the supporting text.

ACTION 24: To modify Policy P3 to delete Parts G and N(v) concerning the expansion of the King Harold Academy.

Buckhurst Hill

53. Allocation BUCK.R1 (land at Powell Road) is essentially justified, but a modification is required to Appendix 6 to ensure that development maintains the character and appearance of the streetscene which, in this location, is dominated by large, imposing dwellings. A further amendment is required to the "ecology" entry to highlight the importance of the tranquillity of Linder's Field.

ACTION 25: To modify Appendix 6 to ensure that the street scene and Linder's Field are properly protected in the development of BUCK.R1 (Land at Powell Road).

Chigwell

54. Site **CHIG.R6**, the Limes Farm Masterplan Area, is allocated for a minimum of 100 additional homes on top of the 778 which already exist in this estate of mainly social housing. Whilst the allocation would provide an opportunity for regeneration, there is no real evidence of a pressing need for this and it does not seem to be a wider priority. Rather, the need/desire to deliver housing on previously developed land rather than in the Green Belt has again been the principal driver for the allocation.

55. There is no fundamental objection in principle to the regeneration of this area but there is significant local concern that the allocation would not address existing transport-related problems caused by the design of the estate around a ring road with only a single point of access. My site visit left me in no doubt about the difficulties this surely can present, and I heard that it had not been possible to secure a second access for various reasons including restrictive covenants. However, this matter has not been considered in any detail in proposing the allocation and the highway authority is certainly not confident that it could be resolved. Consequently, the allocation would be likely to make an existing problem worse and the benefit of 100 additional houses would not outweigh the harm which would be caused. Its inclusion in the Plan is therefore not justified and the site should be deleted.

56. Site **CHIG.R7** (Land at Chigwell Convent) is allocated for approximately 28 dwellings. It is an open grassed area fenced by railings with a long driveway running through it to the listed Chigwell Manor House, which itself is accessed through a listed gateway at the southern end of the driveway. The site appears as private land providing a grand entrance to the Manor.

57. The site-specific requirements in Appendix 6 of the Plan acknowledge that development here might impact directly upon the listed forecourt piers,

gateway and railings and upon the setting of the manor house. Whilst it is suggested that the special interest of these assets could be preserved by focussing development along the sides of the site, I am not confident that this is the case.

58. A development of up to 28 dwellings along with associated paving, fencing etc. would almost certainly encroach upon the character of the site as an open and impressive entrance to an imposing listed building. Therefore, either more information is needed to demonstrate that it would be possible to achieve a development which preserved the significance of the relevant assets (to include a statement of significance and possible site layouts), or the allocation should be deleted from the Plan.

ACTION 26: To delete proposed allocation CHIG.R6 (Limes Farm Masterplan Area) via a MM.

ACTION 27: To either provide more evidence to demonstrate that a suitable scheme could be achieved on CHIG.R7 (Land at Chigwell Convent), or to delete the proposed allocation from the Plan via a MM.

Roydon

59. **ROYD.R3** (Land at Epping Road) is allocated in the Plan for approximately 14 dwellings. However, the site promoter (who is seeking a larger allocation for at least 120 dwellings) has confirmed that the land is not available for the scale of development proposed. The site should be deleted from the Plan, as agreed with the Council at the hearing.

ACTION 28: To delete proposed allocation ROYD.R3 (Land at Epping Road) from the Plan via a MM.

High Ongar (Policy P12)

60. The site boundary for **HONG.R1** (Land at Mill Lane) presently includes part of a residential garden in error. An amendment to the Policies Map is therefore required, but the Green Belt boundary should remain as shown.

ACTION 29: To amend the site boundary for HONG.R1 (Land at Mill Lane).

Detailed Policy Matters

61. This section concerns detailed matters relating to certain strategic, topic-specific and development management policies in the Plan. Those policies not covered below might still be subject to modification as indicated at the hearings, but I am not recommending any further changes at this stage.

Policies SP3 (Place Shaping) and D2 (Essential Services & Facilities)

62. Policy SP3 sets out a range of place-shaping principles intended to apply proportionately to all development proposals. The creation of healthy, inclusive communities and the promotion of general well-being are important aspects of place-shaping and, taken as a whole, the Plan includes sufficient

provisions to facilitate the aims of Section 8 of the 2012 Framework. However, spreading the provisions throughout the Plan risks them being lost and so, for effectiveness, Policy SP3 should include an overarching principle on health and well-being. The supporting text should draw attention to other relevant policies in the Plan itself and signpost important guidance outside it.

63. For similar reasons, Part D of Policy D2 requiring the preparation of Health Impact Assessments (HIA) for certain schemes should be moved to Policy SP3. This is necessary to ensure that HIA is undertaken at the outset of the planning process and is not viewed simply as a means of investigating the need for health facilities.

ACTION 30: To modify Policy SP3 to include an overarching principle on health and well-being and to include Part D of Policy D2 on HIA within it.

Policies H1 (Housing Mix & Accommodation Types); H2 (Affordable Housing); and DM10 (Housing Design & Quality) concerning the optional Nationally Described Space Standard and the M4(2) Standard for Accessible & Adaptable Dwellings.

64. Policies H1 and H2 would require all new market and affordable homes to be built to the optional technical standard M4(2) for accessible and adaptable dwellings; and Policy DM10 would require them to meet the optional nationally described (minimum internal) space standard (NDSS). The PPG is clear that Local Planning Authorities will need to gather evidence to determine whether there is a need for such standards in their area to justify setting them in their Local Plans⁴; and the associated Written Ministerial Statement⁵ further clarifies that optional technical standards should only be required if they address a clearly evidenced need and where their impact on viability has been considered.
65. The Council's Stage 2 Viability Study (EB301) has taken account of the costs of these standards and imposing them would not put the implementation of the Plan at serious risk. Moreover, the evidence concerning the projected increase in older people living in the HMA during the Plan period, taken together with the national and local objective of enabling people to remain in their own homes for as long as they wish, justifies the need for the M4(2) standard⁶.
66. Turning to the NDSS however, no evidence was provided to support the need for this standard at the time of the relevant hearing. Some analysis of the extent to which recent schemes have complied with it has now been set out in document ED54, but this is based on a sample of major schemes (10 homes or more) only, permitted between 2013-2017. No evidence is presented in respect of housing delivered on smaller sites during the same period, or about the size of dwellings in the existing housing stock. Nor is any information provided as to whether the size of dwellings currently available in the District is causing particular difficulties. Consequently the

⁴ PPG para. 002 Ref. ID 56-002-20160519; Revised 19 May 2016.

⁵ WMS Planning Update 25 March 2015.

⁶ Strategic Housing Market Assessment, 2015 (EB405), in particular para. 6.33.

requirement in Policy DM10 to meet the NDSS is not justified and should be deleted.

ACTION 31: To modify Policy DM10 to remove the requirement for development to meet the NDSS.

Policy H2 (Affordable Housing)

67. Part C of this policy sets out how the mix of affordable homes to be provided on development sites should be determined. The main purpose of the second sentence is to secure schemes which are “tenure blind” and this is a commendable objective. However, Table 76 in the Strategic Housing Market Assessment of September 2015 (EB405) indicates that a different mix of homes is needed for each tenure and so the requirement for the affordable mix to reflect the market mix is not justified. The second sentence of Part C should therefore be reworded to better express the primary intention of the policy.

ACTION 32: To modify Part C of Policy H2 to reflect the primary intention of the policy to achieve “tenure blind” development.

Policy E1 (Employment Sites)

68. Having regard to the Council’s post-hearing document ED92 prepared at my request, I am satisfied that the designation of site **RUR.E11** (Quickbury Farm) as an existing employment site is justified. An addition to paragraph 3.45 of the supporting text is proposed, but this is not required for soundness and should not be included in the MMs schedule.

Policy T1 (Sustainable Transport Choices)

69. At the hearing, the Council advanced modifications to this policy intended to improve clarity, avoid duplication and correct drafting errors. Whilst some participants expressed concern about the proposed deletion of Part C, the relevant provisions would be included in the modified Part E rather than lost. The modified version of the policy would ensure clarity and effectiveness and so this should be reflected in the MM schedule.

70. Modifications are also proposed to new Part F which are intended to ensure that all new developments providing parking include charging points for electric vehicles. This aim is justified, but the suggested wording does require amendment because, as drafted, it could imply that every single space should have its own charging point. There is no evidence to demonstrate that this would be feasible in large communal parking areas for example.

ACTION 33: To redraft the MM already proposed concerning the provision of charging points for electric vehicles.

Policy T2 (Safeguarding of Routes and Facilities)

71. Planning permission has been granted for a new Junction 7A on the M11 and a modification to safeguard land required to implement this was discussed at the hearing. However, the master-planning process should minimise the

potential for relevant schemes to conflict with this strategic road improvement and so the proposed modification is not necessary for soundness It should not be included in the MM schedule.

Policy DM1 (Habitat Protection & Improving Biodiversity)

72. This policy is intended to apply to all development and will thus capture schemes of a wide range of types and sizes. It is acknowledged that it might not be possible for some to achieve the net biodiversity gains sought and so Part H, which states that proposals "must demonstrate" net gain, should be amended as agreed at the hearing. However, it is justified for all development to "seek to deliver net biodiversity gain" as required by Part A of the policy and the wording of this provision should not be weakened by the addition of the suggested wording, "where possible".

ACTION 34: To modify Parts A and H of Policy DM1.

Policy DM4 (Green Belt)

73. Modifications to ensure that this policy would be consistent with national policy were agreed in principle at the hearing. In addition, a specific amendment to the supporting text concerning schools and community facilities in the Green Belt was discussed. The amendment would not alter the position that the construction of new buildings for such uses would represent inappropriate development in the Green Belt which should not be approved except in very special circumstances. It could, however, single them out for more favourable consideration and in light of the concerns raised about existing schools being closed or redeveloped necessitating new ones on Green Belt sites, it would not be appropriate to do so. The proposed amendment should be excluded from the MM schedule.

74. More generally, there are examples in the Plan of sites with unimplemented planning permission being removed from the Green Belt so that they do not constitute anomalies once built out. Land at Chigwell School and at Chimes Garden Centre was proposed to be removed from the Green Belt via modifications for this reason. However, such schemes should have been granted planning permission because they either complied with Green Belt policy, or because very special circumstances existed to justify an exception. If different schemes are proposed once the sites are removed from the Green Belt, they would not need to comply with restrictive Green Belt policy and the purpose of the designation could be compromised. To avoid this risk, the MM schedule should ensure that all such sites are retained within the Green Belt.

ACTION 35: To exclude the amendment proposed to Policy DM4 concerning school sites from the MM Schedule; and to ensure that sites benefiting from unimplemented planning permission in the Green Belt are retained in the Green Belt.

Policy DM6 (Designated and Undesignated Open Spaces)

75. Part A of this Policy would require development to provide open space in accordance with the Infrastructure Delivery Plan (IDP) and Open Space Strategy November 2017 (EB703). It seems that the IDP Schedule (EB1101B) includes deficits in provision of different types of open space

identified in Appendix 2 of the Open Space Strategy (although I have not checked this comprehensively for each typology). However, Appendix 2 of the Open Space Strategy includes some drafting errors in the form of transposed columns which makes it difficult to interpret. These affect Table 2 (amenity greenspace) and Table 4 (public parks and gardens), which require correction.

76. More fundamentally, the tables in Appendix 2 do not provide as much detail about the future position in respect of open space provision as they do about the present one. They show what the population is expected to be in each settlement in 2033, what the requirement for open space will be in hectares and whether there will be a surplus or deficit of supply. However, they do not show either how many sites or how much space will actually be available in 2033, and so it is not possible (from this source at least) to know whether planned development on open space has been taken into account in the assessment of future provision.
77. This specific concern was raised in relation to the future supply of amenity greenspace in Loughton and my own assessment of Table 2 in respect of this settlement (working around the transposed columns) suggests that planned development, such as that proposed on Jessel Green, might not have been factored in. This is because the deficit of 4.04Ha projected in 2033 is arrived at simply by subtracting the requirement in 2033 of 21.57Ha from the *existing* provision of 25.61Ha. Whilst this clearly needs explaining/correcting, my present conclusions in relation to the Jessel Green allocation are unaffected by whether there will be a surplus or deficit of amenity greenspace provision in 2033.
78. Given that Policy DM6 relies upon the evidence in the Open Space Strategy, the issues identified above should be investigated, explained and, if necessary, corrected. If corrections are required, the Council should clarify whether any have wider implications for the Plan's allocations or for viability in any settlement. Whilst Part A of Policy DM6 might not require amendment, the supporting text should be very clear about where developers and decision-makers should look to find the appropriate information concerning open space requirements.

ACTION 36: To investigate and correct drafting errors in Appendix 2 of the Open Space Strategy; to investigate whether proposed development on open spaces has been factored in when identifying future surpluses and deficits of open space; and to advise whether modifications to the Plan are required in consequence.

Policy DM7 (Heritage Assets)

79. This policy concerns the protection of the District's heritage assets and the Council confirmed that it is intended to be consistent with national policy but not go beyond it. However, because Part B does not differentiate the level of protection afforded to designated and non-designated assets, the protection of the latter would go beyond that conferred by the 2012 Framework. This presents the relevant tests for development affecting designated heritage assets in paragraphs 132-134, whereas the tests relevant to non-designated assets are set out in paragraph 135 – and they are less onerous. A

modification is therefore required to accurately convey the intentions of the policy.

ACTION 37: To modify Part B of Policy DM7 to ensure consistency with national policy.

Policy DM12 (Subterranean Basement Development & Lightwells)

80. Following the hearing, I remain concerned about whether Part B as worded would be effective in securing basement developments which are subordinate to the host building. This is because Part B(ii) would invite proposals occupying up to 50% of the garden area of a building to its front, sides and rear, which could result in a very large basement extension to a small house with a large garden.

81. Whilst it would be for the decision-maker to take all relevant factors into account in determining whether a proposal was subordinate, the inclusion of the 50% 'threshold' would skew the balance in favour of schemes that comply with it. Moreover, the Council's desire to define subordinacy in this case would seem at odds with its preference to avoid defining proportionality in relation to acceptable additions to buildings in the Green Belt.

ACTION 38: To modify Part B(ii) of Policy DM12 concerning the subordinacy of basement developments.

Policy DM20 (Low Carbon & Renewable Energy)

82. Part D of this policy would require Strategic Masterplans to demonstrate how they could provide infrastructure for district heating unless this would either render development unviable, or alternative technologies could provide similar benefits. Notwithstanding the viability clause, the requirement to demonstrate how district heating could be provided could be quite onerous and the evidence referred to by the Council⁷ does not clearly justify the priority given to this type of carbon reduction scheme. Rather district heating is recommended as one of a range of opportunities to be considered and so, in the absence of any firm evidence to support either its feasibility or viability, Part D should be reworded along these lines. Such an approach would be consistent with national policy, which recognises decentralised energy as encompassing a diverse range of technologies.

ACTION 39: To modify Part D of Policy DM20 so that district heating is one of range of carbon reduction opportunities to be considered.

Next Steps

83. The purpose of the advice above is to enable the Council to consider further modifications to make the submitted Plan sound. If the Council wishes to raise any points of fact or seek clarification it should do so as soon as possible through the Programme Officer. Otherwise, I am not inviting comments upon the content of this letter and no further evidence will be accepted at this stage.

⁷ Carbon Reduction and renewable Energy Assessment, May 2013 (EB907).

84. Ultimately, my advice should inform the full schedule of MMs which the Council is already preparing and enable the completion of the evidence upon which the final version of the Plan relies. If the Council decides that it is not possible to correct the issues of soundness I have identified through the MMs process, I should be advised with reasons.

85. In order to programme the remainder of the examination efficiently, it would be helpful to know approximately how long the Council will require to act upon the advice in this letter and to finalise the main modifications for public consultation.

Louise Phillips

INSPECTOR

2 August 2019.